

**Statement of
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The U.S.-Vietnam Bilateral Trade Agreement

INTRODUCTION

Senator Kerry, Chairman Baucus and Members of the Committee, thank you for inviting me today to testify in support of the U.S.-Vietnam Bilateral Trade Agreement (BTA). Approving and implementing this Agreement are critical steps in the process of extending normal trade relations (NTR) status to products from Vietnam, furthering U.S. economic and strategic objectives with Vietnam and Southeast Asia and opening a growing market to U.S. exports and investment.

On June 8, when President Bush formally transmitted the Vietnam BTA to Congress, he noted that it was “an important part” of the Administration’s trade agenda. He stressed that the Administration’s agenda of free trade and open markets is at the foundation of our efforts to promote prosperity and opportunity around the world, and observed, in particular, that trade has proven to be a powerful tool for improving and reforming economies, and opening up entire societies.

The central element of the Administration’s trade policy to achieve these ends is, of course, Trade Promotion Authority, on which Ambassador Zoellick testified before this Committee on June 21. This trade agreement with Vietnam, which represents the culmination of a decade-long effort to normalize political and economic relations, will also further U.S. objectives in a growing country in a strategic part of the world. The Agreement itself is the result of nearly five years of negotiation with the Government of Vietnam.

The purpose of this trade agreement is to provide a basis for normalizing trade relations with Vietnam, putting them on the same footing as nearly every other country in the world. Today, Vietnam is one of only six countries that does not receive “NTR” tariff treatment from the United States. Aside from Serbia and Laos, Vietnam is the only country among this group of six with which we have full diplomatic relations. For the past 25 years, imports from Vietnam have either been prohibited, or since the lifting of the embargo in 1994, have faced tariffs in the range of 40 percent or higher. NTR tariffs now average 3 percent, placing imports from Vietnam at a significant disadvantage.

At the same time, the Agreement opens up Vietnam’s market to U.S. exports of goods and services. The Agreement requires Vietnam to provide comprehensive protection of intellectual property rights and to provide basic protections to U.S. investments in that country. In short, it is a balanced agreement that benefits both sides.

Today, I would like to explain how this agreement not only represents the culmination of a decade long historic process of normalizing relations, but also furthers U.S. strategic and economic interests in Vietnam and in Southeast Asia.

Vietnam's Significance to the United States

First, let me say a few words about the importance of Vietnam to the United States and U.S. interests. Vietnam is a country of 80 million people– the second largest in Southeast Asia, with about half of its population under the age of 25. Even with the trade restrictions on both sides that are now in place, two way trade has grown to over \$1 billion annually since the trade embargo was lifted in 1994. Vietnam's per capita income is low – about a dollar a day – but it is growing, and its importance as a market will also grow as the younger generation comes of age. In short, while still a small market, Vietnam has great potential to be a large and growing trading partner in coming years, creating new opportunities and jobs for U.S. exporters of goods and services.

More broadly, Vietnam's integration into the regional and world economy is critical to peace and stability of Southeast Asia. A Vietnam which is poor, isolated and defensive not only harms the people of Vietnam, but also damages U.S. security interests in this strategic part of the world.

Economic Reform in Vietnam and the Development of U.S-Vietnam Relations

The trend over the past fifteen years has been for Vietnam to pursue a policy of greater economic openness, both internally, and with respect to the outside world. This policy has gone hand in hand with the normalization of our political and economic bilateral relations. Let me briefly review these important developments.

For a number of years after the end of the war in 1975, Vietnam continued to follow the Soviet model of central planning. By the mid -1980s, it became clear to Vietnam's leadership that these policies had brought the country to the brink of economic disaster. Thus, in 1986, Vietnam embarked on a course of "doi moi" or economic restructuring, under which it would de-collectivize its agriculture, abandon central planning, move to the adoption of price and market mechanisms, and begin opening its economy to the outside world.

These and other developments in the political sphere led to a gradual re-engagement between the United States and Vietnam. In 1988, under President Reagan, Vietnam began to cooperate with the United States in attempting to account for the fate of U.S. personnel lost or missing in action during the war years. Under the Bush Administration in 1991, the path to fuller normalization of relations was laid out in a comprehensive manner when Washington presented Hanoi with a "road-map" for phased normalization of ties. The top immediate priority of this road-map was to achieve Vietnam's cooperation in obtaining the fullest possible accounting of POWs and MIAs

from the Vietnam conflict era. Continued cooperation by Vietnam in such an accounting has been an essential foundation for the political and economic normalization that has occurred in the past decade.

In 1992, the Bush Administration eased the trade embargo against Vietnam to allow commercial sales to Vietnam connected with basic human needs, lifted curbs on projects by U.S. non-governmental organizations and non-profit groups in Vietnam, and allowed telecommunications links with Vietnam. In 1994, following a Senate resolution, the trade embargo on Vietnam was lifted entirely.

In 1995, the United States formally resumed diplomatic ties with Vietnam and opened an embassy there. At the same time, President Clinton directed that the normalization of economic relations begin, pursuant to relevant U.S. laws, i.e., under the Jackson-Vanik provisions of U.S. trade law. Thus, in early 1996, we began negotiation of a bilateral trade agreement, necessary for the grant of NTR. At the same time, a constant in our relationship with Vietnam over the past years has been concern over human rights issues, including respect for religious freedom and labor rights. We will continue our dialogue with Vietnam on these issues, on which some progress has been made in the past decade, but clearly, where more needs to be done.

Progress in our bilateral relations was accompanied by other Vietnamese steps in recent years toward closer relations with the outside world and integration into the world economy. In 1995, Vietnam joined the Association of Southeast Asian Nations (ASEAN), and signed on to the ASEAN Free Trade Area. These actions represented important steps by Vietnam to establish economic and political links with its neighbors, and to commit to the course of open markets and economic reform. In that same year, Vietnam applied for membership in the WTO, another sign of its commitment to integrate into world markets.

Vietnam's steps to adopt economic reforms and to expand its ties with the regional and world economies have resulted in generally improved economic performance over the past decade. From 1991 to 1998, Vietnam's economy grew at an annual rate of 8 percent. However, in more recent years, the growth rate has declined, to 4.8 percent in 1999, and 5.5 percent last year. These slower growth rates reflect not only the regional slowdown caused by the financial crisis, but the slowdown in Vietnam's own reform efforts.

The Importance of the Bilateral Trade Agreement

Vietnam's recent economic slowdown highlights the importance of its decision to sign the Bilateral Trade Agreement (BTA) with the United States. The measures that Vietnam will apply to implement the BTA represent the most important steps that it has taken to advance economic reform since it began its program of economic "restructuring" in the late 1980s. The Agreement is significant to the United States for several reasons:

First, because the agreement commits Vietnam to badly needed reform efforts and provides access to the U.S. market, it will bolster Vietnam's prosperity, and accelerate its integration into the world economy. It will also lay the groundwork for the additional economic reforms that Vietnam will need to take to join the World Trade Organization.

Second, the Agreement will help transform Vietnam's economy into one that is more open and transparent, expanding economic freedom and opportunities for the Vietnam's people, and fostering a more open society. The Agreement contributes to these outcomes in several specific ways. For example:

- The Agreement extends the right to trade (import and export) from a limited number of state-owned enterprises to all Vietnamese persons, and over time to virtually all American companies located in Vietnam as well.
- Transparency requirements and the right to appeal administrative decisions will encourage and enhance application of the rule of law to Vietnam's trade and investment regime.

Finally, of course, the Agreement creates new and significant commercial opportunities for U.S. firms and persons to export and do business in Vietnam. By eliminating non-tariff and tariff barriers on the import of agricultural and industrial goods, opening its market in key service sectors such as telecommunications, insurance, banking and distribution, protecting intellectual property rights, and eliminating investment-distorting policies, it will allow American farmers, manufacturers, producers of software, movies and music, and services providers to access this young and growing market, in many areas for the first time. A closer look at the Agreement's provisions demonstrates the many areas of commercial benefit.

Vietnam's Commitments Under the Bilateral Trade Agreement

The Agreement is divided into six chapters: (1) market access for industrial goods and farm products; (2) intellectual property; (3) trade in services; (4) investment; (5) business facilitation; and (6) transparency. In each case, it sets clear and specific commitments and timetables, which will go into effect after the agreement is implemented.

The details of the agreement are as follows.

Chapter 1. Market Access for Goods

For goods generally, Vietnam has committed to general trade principles that are consistent with WTO practices, including reducing tariffs and abolishing non-tariff restrictions, such as quotas, ensuring trading rights (the right to import and export) for foreign and Vietnamese businesses, and others. Some of the major commitments include:

Trading Rights: Vietnam will grant, for the first time, rights for both Vietnamese and foreign businesses to import and export, generally phased in over 3-6 years.

National Treatment – Vietnam will apply national treatment for imports in areas including standards, taxes and commercial dispute settlement.

Tariffs -- Vietnam will guarantee MFN/NTR-level tariffs for U.S. goods, and cut tariffs on a wide range of agricultural and manufactured goods of interest to U.S. exporters in most cases by a third to a half, from current levels that average approximately 20 percent.

Non-tariff Measures: Vietnam has agreed to eliminate all quantitative restrictions on a range of industrial and agricultural products (e.g., auto parts, citrus, beef), over a period of 3-7 years, depending on the product.

Import Licensing: Vietnam will eliminate all discretionary import licensing, in accordance with the WTO agreement.

Customs Valuation and Customs Fees. Vietnam will comply with WTO rules – using transactions value for customs valuation, and limiting customs fees to cost of services rendered – in 2 years.

Technical Standards and Sanitary and Phytosanitary Measures: In accordance with WTO principles, Vietnam will apply technical regulations and sanitary and phytosanitary measures (standards) to the extent necessary to fulfill legitimate objectives (e.g., to protect human, animal or plant life or health) and Vietnam will apply these standards to U.S. exports based on national treatment.

State Trading: State trading will be carried out in accordance with WTO rules (e.g., state trading enterprises will make any sales and purchases only in accordance with commercial considerations).

Chapter 2. Intellectual Property Rights

Vietnam will implement WTO-level patent and trademark protection within one year, and copyright and trade secret protection within 18 months. It will also take further measures to strengthen intellectual property protection in other areas, for example protection of encrypted satellite signals.

Chapter 3. Trade in Services

Vietnam will apply the rules of the WTO's General Agreement on Trade in Services and guarantee protection for the existing rights of all foreign service providers in Vietnam. Vietnam has also made specific commitments in a range of sectors. Some of the major areas include:

Telecommunications – Vietnam accepts the principles of the WTO’s Basic Telecommunications Reference Paper, requiring a pro-competitive regulatory regime and cost-based interconnection fees. Vietnam also made commitments to liberalize the basic and value-added telecommunications markets, as follows:

Basic Telecom (including mobile cellular and satellite) – Vietnam will allow U.S. firms to form joint ventures four years after implementation of the agreement, with a 49 percent U.S. equity limit.

Value-added Telecom – U.S. firms will be allowed to form joint ventures two years after implementation of the Agreement (3 years for Internet services), with a 50 percent limit on U.S. equity.

Voice Telephone services – U.S. firms will be allowed to form joint ventures after six years, with a 49 percent equity limit.

In all these fields, Vietnam and the U.S. will discuss a potential increase in the level of U.S. equity participation when the agreement is reviewed in three years.

Financial Services – Vietnam will comply with the provisions of the General Agreement on Trade in Services Financial Services Annex, and made the following specific commitments:

Insurance: In life and other “non-mandatory” sectors, U.S. firms will be able to form joint ventures with a 50 percent equity limit after three years, and to hold 100 percent equity after five years. In “mandatory” sectors such as motor vehicle and construction insurance, U.S. firms will be able to hold 100 percent equity after six years.

Banking and related financial services – Vietnam has also agreed that:

Non-bank and leasing company providers: Joint ventures will be allowed on implementation of the agreement; after three years, Vietnam will permit 100 percent U.S. equity shares.

Banks – U.S. banks will be allowed to open branches in Vietnam. U.S. banks will be able to form joint ventures with equity between 30 percent and 49 percent; after 9 years, 100 percent U.S. subsidiary banks will be allowed. Vietnam will also allow U.S. banks to hold equity shares in privatized Vietnamese banks at the same level as allowed Vietnamese investors. Over time, Vietnam will also allow U.S. banks to offer such services as deposits in local currency, credit cards, ATM machines and others.

Securities-related services – U.S. securities firms will be allowed to open representative offices in Vietnam.

Professional: Vietnam has made specific commitments across the range of professional services industries. These include:

Legal – Vietnam will allow 100 percent U.S. equity in law firms, including branches. Law firms opening branches in Vietnam will receive 5-year, renewable licenses, and may consult on Vietnam's laws.

Accounting – U.S. accounting firms will be able to hold 100 percent equity. Vietnam will grant licenses to U.S. accounting firms on a case-by-case basis for three years, with no limits after that time. U.S. firms will be able to provide services to foreign-invested firms for the first two years, and to Vietnamese firms after that time.

Architectural – U.S. architectural firms will be able to hold 100 percent equity. U.S. firms will be able to provide services to foreign invested firms for the first two years, and to Vietnamese firms after that time.

Engineering – U.S. engineering firms will be able to hold 100 percent equity. U.S. firms will be able to provide services to foreign invested firms for the first two years, and to Vietnamese firms afterwards.

Audio Visual – U.S. firms will be able to form joint ventures with 49 percent equity on implementation of the Agreement; the equity limit will rise to 51 percent after five years. Services opened under this commitment include film production and distribution, and motion picture projection services.

Distribution – For wholesale distribution, U.S. firms will be able to form joint ventures after three years with a 49 percent equity limit; this equity limit will be eliminated after six years. All U.S. retailers wishing to participate in the Vietnam market will be allowed to open one outlet, with further approvals on a case-by-case basis.

Other – Vietnam has also made specific commitments in a wide range of other services fields, including computer services, advertising, market research, management consulting, construction, distribution, private education, health services such as hospital and clinics, and the travel and tourism sector.

Chapter 4. Investment

Vietnam made a series of commitments that will ease investment, reduce paperwork and in almost all cases ensure national treatment for foreign investors. These include protection against expropriation of U.S. investments in Vietnam; rights to repatriate profits and conduct other

financial transfers; phasing out such measures as local content requirements and export performance requirements within 5 years; ending almost all investment screening and discriminatory pricing; and reducing government controls and screening requirements for joint ventures.

Chapter 5: Business Facilitation

Vietnam will guarantee the right for U.S. persons to engage in routine business practices, such as setting up offices, advertise, and conduct market studies.

Chapter 6: Transparency and Right to Appeal

Under the provisions of this important chapter, Vietnam has made an extensive set of commitments to transparency. In sharp contrast to past practices and a major reform of administrative policies, Vietnam will now provide advance notice of all laws, regulations and other administrative procedures relating to any matter covered in the Agreement; publish all laws and regulations; and inform the public of effective dates and government contact points. Specific commitments include:

- All laws governing issues covered in the Agreement must be made public and readily available.
- Vietnam will designate an official journal in which all such measures will be published.
- Vietnam commits to uniform, impartial and reasonable application of all laws, regulations and administrative procedures.
- Vietnam will form administrative or judicial tribunals for review and correction (at the request of an affected person) of all matters covered in the agreement, and afford the right to appeal the relevant decision. Notice of decisions upon appeal and reasons for decisions appealed will be provided in writing.

Process For Granting NTR Treatment

The Vietnam trade agreement was negotiated under title IV of the 1974 Trade Act, the so-called Jackson-Vanik provisions of our trade law. The Agreement meets or exceeds each of the requirements in the statute relating to its substantive provisions. Upon Congressional approval of the Agreement, the President's proclamation granting NTR tariff treatment to goods from Vietnam becomes effective. Vietnam's continued receipt of NTR tariff treatment would require annual extensions of Vietnam's waiver of the Jackson-Vanik freedom of emigration requirements or a finding by the President that Vietnam is in compliance with those requirements. As you are aware, Congress can disapprove extension of a waiver or a compliance finding.

On June 1, the President recommended renewal of Vietnam's Jackson-Vanik waiver based on Vietnam's continued progress on emigration issues. The renewal of the Jackson-Vanik waiver will allow the continuation of benefits under OPIC, EXIM Bank and Trade & Development Agency programs, but will *not* extend NTR benefits to Vietnam until the trade agreement is approved by Congress.

Vietnam's Ratification and Implementation of the Agreement

Vietnam is also preparing to ratify and implement the Agreement. On June 7, Vietnam's Trade Minister Vu Khoan met with USTR Zoellick at the APEC Trade Minister's meeting in Shanghai. Minister Khoan assured Ambassador Zoellick that Vietnam was proceeding with formal ratification of the Agreement, which can be done quickly under Vietnam's laws. He assured Ambassador Zoellick that Vietnam was preparing extensively to implement the Agreement, working to revise the necessary laws and regulations. Ambassador Zoellick noted that the United States, under a USAID program, would continue a program of providing technical assistance to Vietnam as it takes the numerous steps necessary to implement the Agreement. Full and effective implementation of the Agreement by Vietnam once it enters into force will be a top U.S. priority.

CONCLUSION

This Agreement is an historic step forward in our economic relationship with Vietnam – bringing U.S.-Vietnam trade onto the same terms we afford nearly every other country in the world, and marking an important turning point in Vietnam's domestic economic policies. Over time, it will help speed Vietnam's integration into the world and Pacific economies, and move it toward ultimate membership in the World Trade Organization.

Approval of this Agreement, and grant of NTR for Vietnam, will open significant new opportunities for Americans. More important still, it will contribute to aspirations for economic liberalization and the rule of law in Vietnam, complement the work we are pursuing in human rights, and advance our long-term vision of a peaceful, stable Asia.

Finally, of course, this Agreement marks a decisive and historic moment in our normalization of relations with Vietnam, and with Indochina more generally. This process, pursued in a bipartisan manner over the past decade, has contributed to the end of the Cambodian conflict; an accounting for Americans missing in action during the Vietnam-era war; and the reopening of hope for millions of the region's people. Congressional approval of this Agreement, along with the normalization of trade relations with Laos, will mark the final steps in this process. It should also provide momentum to our broader trade legislative agenda this year, in particular with respect to Trade Promotion Authority. We look forward to working with Congress to achieve these goals.